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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,302	02/13/2002	Jean-Louis H. Gueret	05725.1021-00	7746

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EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,302

Applicant(s)

GUERET, JEAN-LOUIS H.

Examiner

Huyen Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-136 is/are pending in the application.
- 4a) Of the above claim(s) 27,32-36,38-40,88,93-97 and 99-101 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26,28-31,37,41-87,89-91,98 and 102-136 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species II, Figure 5A, in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-26, 28-31, 37, 41-87, 89-91, 98, 102-136 are readable on the elected species. Therefore, claims 27, 32-36, 38-40, 88, 93-97 and 99-101 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to the nonelected species.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-21, 24, 25, 30, 41-45 and 58-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Pouly (No. 782.500).

The Pouly reference discloses an applicator assembly comprising an applicator member 3 having a face configured to apply product to a surface, the applicator member 3 defining a chamber having an opening in the face; and a holder 5 configured to hold the product 1 and to be removably mounted relative to the application member 3 so as to permit the chamber to removably receive the product 1, the holder 5 having a substantially fixed axial position with respect to the application member when the holder 5 is mounted relative to the applicator member 3.

Regarding claim 6, the applicator assembly comprises a support member 4, wherein the applicator member 3 is mounted on the support member 4.

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Regarding claims 9 and 10, the holder and the support member are configured to be removably engaged via screw-fastening.

Regarding claims 11-14, the holder 5 and the support member 4 comprise mutually cooperative engagement mechanisms, e.i. screw threading, for engaging the holder 5 to the support member 4.

5. Claims 1-4, 6-16, 19-26, 28-31, 41, 45, 58-64, 66-87, 89-92, 102, 118-121 are rejected under 35 U.S.C. 102(b) as being anticipated by Henriksson (2,962,743)

The Henriksson reference discloses an applicator assembly comprising an applicator member 28 having a face configured to apply product to a surface, the applicator member 28 defining a chamber having an opening in the face; a holder 12 configured to hold the product and to be removably mounted relative to the application member 28 so as to permit the chamber to removably receive the product; and a lid 32 configured to removably cover at least a portion of the application member 28.

Regarding claim 6, the applicator assembly comprises a support member 12, wherein the applicator member 28 mounted on the support member 12.

Regarding claims 9-14 and 68-74, the holder 5 and the support member 4 comprise mutually cooperative engagement mechanisms, e.i. screw threading, for engaging the holder 5 to the support member 4.

Regarding claims 26 and 87, the applicator member 28 comprises a plurality of foam blocks 40 and 42.

Regarding claims 28 and 89, the foam blocks 40 and 42 are stacked vertically upon each other.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pouly (No. 782.500) in view of Gueret (5,904,151).

Although the Pouly reference does not disclose that the applicator member 3 includes flocking on an exterior surface portion of the application member 3, attention is directed to the Gueret reference which discloses another applicator having flocking on the exterior surface of the applicator member for improving the softness and quality of the application.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Pouly applicator member with flocking in view of the teaching of the Gueret reference in order to improve the softness and the quality of the application.

8. Claims 22, 23, 61-86, 91, 92, 98, 102-10, 118-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pouly (No. 782.500) in view of Gueret (5,904,151).

Although the Pouly reference does not disclose that the applicator includes a lid, attention is directed to the Gueret reference which discloses another applicator system comprising a lid (Figs. 7A, 7D and 8A) for protecting the application member when not in use.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide cap for the Pouly applicator system in view of the teaching of the Gueret reference in order to protect the application member when not in use.

9. Claims 46-57, 106-117, 122-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pouly (No. 782.500) in view of Gueret (5,904,151).

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Although the Pouly reference does not an applicator system comprising a plurality of application members and holders stored in case, attention is directed to the Gueret reference which teaches an applicator kit comprising a plurality of applicators of variety of different product stored in the case for easy and convenient use.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of Pouly applicator having different products disposed case in view of the teaching of the Gueret reference for easy carrying and convenient use.

10. Claims 26, 28, 29, 87, 89 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pouly (No. 782,500) in view of Gueret (5,904,151).

Although the Pouly reference does not disclose the applicator member 3 includes a plurality of foam blocks stacked upon each other, attention is directed to the Gueret reference which discloses another applicator comprising plurality of foam blocks stacked upon each other.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Pouly applicator with a stack of foam blocks in view of the teaching of the Gueret reference for provide different tones and feel to the application of the product on a user.

11. Claims 37 and 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henriksson (2,962,743) in view of McNair (2,361,407)

Although the Henriksson reference does not disclose that the applicator member 3 includes textile on an exterior surface portion of the application member 3, attention is directed to the McNair reference which discloses another applicator having textile on the exterior surface of the applicator member for improving the softness and quality of the application.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Henriksson applicator member with textile in view of the

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teaching of the McNair reference in order to improve the softness and the quality of the application.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Routson reference shows an applicator member having an opening and a holder for holding a product, wherein the product is removably received by the opening. The Bunke, Barlow et al, MacMichael, and Thomas show applicator systems having applicator members made of a plurality of foam blocks. The Albig and Chen references show applicator members having openings and holders removably mounted relative to the applicators.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

HL

September 10, 2003


MICHAEL MAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700